

## PART 153—DETERMINATION OF COMPETENCY: CROW INDIANS

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AUTHORITY: Sec. 12, 41 Stat. 755, 46 Stat. 1495, as amended.

SOURCE: 22 FR 10563, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

### § 153.1 Purpose of regulations.

The regulations in this part govern the procedures in determining the competency of Crow Indians under Public Law 303, 81st Congress, approved September 8, 1949.

### § 153.2 Application and examination.

The Commissioner of Indian Affairs or his duly authorized representative, upon the application of any unenrolled adult member of the Crow Tribe, shall classify him by placing his name to the competent or incompetent rolls established pursuant to the act of June 4, 1920 (41 Stat. 751), and upon application shall determine whether those persons whose names now or hereafter appear on the incompetent roll shall be reclassified as competent and their names placed on the competent roll.

### § 153.3 Application form.

The application form shall include, among other things:

- (a) The name of the applicant;
- (b) His age, residence, degree of Indian blood, and education;
- (c) His experience in farming, cattle raising, business, or other occupation (including home-making);
- (d) His present occupation, if any;
- (e) A statement concerning the applicant's financial status, including his average earned and unearned income for the last two years from restricted leases and from other sources, and his outstanding indebtedness to the United States, to the tribe, or to others;
- (f) A description of his property and its value, including his allotted and inherited lands; and

(g) The name of the applicant's spouse, if any, and the names of his minor children, if any, and their ages, together with a statement regarding the land, allotted and inherited, held by each.

### § 153.4 Factors determining competency.

Among the matters to be considered by the Commissioner of Indian Affairs in determining competency are the amount of the applicant's indebtedness to the tribe, to the United States Government, and to others; whether he is a public charge or a charge on friends and relatives, or will become such a charge, by reason of being classed as competent; and whether the applicant has demonstrated that he possesses the ability to take care of himself and his property, to protect the interests of himself and his family, to lease his land and collect the rentals therefrom, to lease the land of his minor children, to prescribe in lease agreements those provisions which will protect the land from deterioration through over-grazing and other improper practices, and to assume full responsibility for obtaining compliance with the terms of any lease.

### § 153.5 Children of competent Indians.

Children of competent Indians who have attained or upon attaining their majority shall automatically become competent except any such Indian who is declared incompetent by a court of competent jurisdiction or who is incompetent under the laws of the State within which he resides.

### § 153.6 Appeals.

An appeal to the Secretary of the Interior may be made within 30 days from the date of notice to the applicant of the decision of the Commissioner of Indian Affairs.

## PART 158—OSAGE LANDS

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## § 158.51

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158.57 Approval of deeds or other instruments vesting title on partition and payment of costs.

158.58 Disposition of proceeds of partition sales.

AUTHORITY: 5 U.S.C. 301. Interpret or apply 62 Stat. 18; 25 U.S.C. 331 note.

SOURCE: 22 FR 10565, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

### § 158.51 Definitions.

When used in this part:

(a) *Homestead* means the restricted nontaxable lands, not exceeding 160 acres, allotted to an enrolled member of the Osage Tribe pursuant to the act of June 28, 1906 (34 Stat. 539), or the restricted surplus lands designated in lieu thereof pursuant to the act of May 25, 1918 (40 Stat. 578).

(b) *Surplus land* means those restricted lands, other than the homestead, allotted to an enrolled member of the Osage Tribe pursuant to the act of June 28, 1906 (34 Stat. 539).

### § 158.52 Application for change in designation of homestead.

Any Osage allottee or the legal guardian thereof may make application to change his homestead for an equal area of his surplus land. The application shall give in detail the reasons why such change is desired and shall be submitted to the Osage Indian Agency on the form "Application to Change Designation of Homestead."

### § 158.53 Order to change designation of homestead.

The application of an Osage allottee, or his legal guardian, may be approved by the Secretary of the Interior, or his authorized representative, and an order issued to change designation of homestead, if it is found that the applicant owns an equal area of surplus land. The expense of recording the order shall be borne by the applicant. The order to change designation shall be made on the form "Order to Change Designation of Homestead."

### § 158.54 Exchanges of restrictive lands.

Upon written application of the Indians involved, the exchange of restricted lands between adult Indians,

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and between adult Indians and non-Indians, may be approved by the Secretary of the Interior, or his authorized representative. Title to all lands acquired under this part by an Indian who does not have a certificate of competency shall be taken by deed containing a clause restricting alienation or encumbrance without the consent of the Secretary, or his authorized representative. In case of differences in the appraised value of lands under consideration for exchange, the application of an Indian for funds to equalize such differences may be approved to the extent authorized by §117.8 of this chapter.

### § 158.55 Institution of partition proceedings.

(a) Prior authorization should be obtained from the Secretary, or his authorized representative, before the institution of proceedings to partition the lands of deceased Osage allottees in which any interest is held by an Osage Indian not having a certificate of competency. Requests for authority to institute such partition proceedings shall contain a description of the lands involved, the names of the several owners and their respective interests and the reasons for such court action. Authorization may be given for the institution of partition proceedings in a court of competent jurisdiction when it appears to the best interest of the Indians involved to do so and the execution of voluntary exchange deeds is impracticable.

(b) When it appears to the best interest of the Indians to do so, the Secretary's, or his authorized representative's, authorization to institute partition proceedings may require that title to the lands be quieted in the partition action in order that the deeds issued pursuant to the proceedings shall convey good and merchantable title to the grantee therein. (See section 6, 37 Stat. 87.)

### § 158.56 Partition records.

Upon completion of an action in partition, a copy of the judgment roll showing schedule of costs and owelty moneys having accrued to or from the several parties, together with deeds, or

other instruments vesting title on partition, in triplicate, shall be furnished to the Osage Agency. The original allotment number shall follow the legal description on all instruments vesting title. When a grantee is a member of the Osage Tribe who has not received a certificate of competency, deeds or other instruments vesting title shall contain the following clause against alienation:

Subject to the condition that while title to the above-described lands shall remain in the grantee or his Osage Indian heirs or devisees who do not have certificates of competency, the same shall not be alienated or encumbered without approval of the Secretary of the Interior or his authorized representative.

**§ 158.57 Approval of deeds or other instruments vesting title on partition and payment of costs.**

Upon completion of the partition proceedings in accordance with the law and in conformity with the regulations in this part, the Secretary, or his authorized representative, may approve the deeds, or other instruments vesting title on partition, and may disburse from the restricted (accounts) funds of the Indians concerned, such amounts as may be necessary for payment of their share of court costs, attorney fees, and owelty moneys.

**§ 158.58 Disposition of proceeds of partition sales.**

Owelty moneys due members of the Osage Tribe who do not have certificates of competency shall be paid into the Treasury of the United States and placed to the credit of the Indians upon the same conditions as attach to segregated shares of the Osage national fund.

**PART 159—SALE OF IRRIGABLE LANDS, SPECIAL WATER CONTRACT REQUIREMENTS**

CROSS REFERENCES: For additional regulations pertaining to the payment of fees and charges in connection with the sale of irrigable lands, see part 160 and §§ 134.4 and 152.21 of this chapter. For general regulations pertaining to the issuance of patents in fee, see part 152 of this chapter.

**§ 159.1 Conditions of contract.**

(a) The form of contract (Form 5-462b)<sup>1</sup> for sale of irrigable lands specifically provides that the purchaser will obligate and pay on a per acre basis all irrigation charges assessed or to be assessed against the land purchased including accrued assessment, which accrued assessment shall be paid prior to the approval of the sale, and for the payment of the construction and operation and maintenance assessments on the due dates of each year. The agreement is to be acknowledged and recorded in the county records in which county the land is situated. The charges incidental to the recording of the instrument shall be paid by the purchaser at the time of executing the agreement.

(b) A strict compliance with the terms of paragraph (a) of this section is absolutely necessary and required.

(Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385. Interprets or applies sec. 1, 41 Stat. 409; 25 U.S.C. 386)

[22 FR 10566, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

NOTE: On May 12, 1921, Circular No. 1677, re sale of irrigable lands, was addressed to all superintendents. It was pointed out therein that the collection of irrigation construction charges was required by the terms of an act approved February 14, 1920 (41 Stat. 409; 25 U.S.C. 386), and that in addition to the construction charge there was an operation and maintenance charge assessable annually that must be paid by the landowners benefited; furthermore, that the purpose of this circular was to point out to the superintendents the necessity of advising prospective purchasers that irrigation charges must be paid and that a so-called paid-up water right was not conveyed with the land. A form of agreement to be executed by the prospective purchaser accompanied this circular.

It has been brought to the attention of the Bureau that irrigation construction charges and operation and maintenance charges have accrued against irrigable allotments prior to the time of their being advertised for sale and that the superintendents have failed to provide for payment of the accrued irrigation charges, with the result that no means are apparent for their collection.

With a view of preventing any future misunderstanding the form of contract accompanying Circular No. 1677 has been redrafted

<sup>1</sup>Forms may be obtained from the Commissioner of Indian Affairs, Washington, D.C.